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Steen Meier Ronborg

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EXAMINER

WITCZAK, CATHERINE

ART UNIT

PAPER NUMBER

3767

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Truesdale (US 4,990,135).

Truesdale discloses a rod house (54) in which a rod (52) having a distal end and a needle (16) having a tapering end with a recess (Figure 5b) is slidably disposed; a chamber house (12) connected (via 56/58) to the rod house; the chamber house comprising at least one chamber, where a first wall of the chamber is a first sealing (28) and a second wall is a second sealing (60); the chamber comprising a medicament; the rod penetrating the first and second sealing when slid proximally; the rod house being sealed by a removable stationary rod house sealing (see Figure 2, wherein sealing 60 acts as a removable end seal for the rod house when the rod house and chamber house are attached); the distal end of the rod projecting out the distal end of the rod house (Figure 2); a spring (112) for retracting the rod after activation; a shoulder (76) in the house which engages a shoulder (106) on the rod for stopping advancement of the rod; the chamber house made from a plastic (Lucite); and a marking means (106) disposed concentrically on the rod which is activated when the rod is activated to mark that the rod has been activated (in that the user can gauge the movement of 106 relative to 76).

2. Claims 1, 2, 15-19, and 21-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Fishman et al (US 5,076,282).

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Fishman et al disclose a device comprising a rod house (608) having a rod with a tapering proximal end (606) slidably disposed in the housing (see Figure 41); the rod house being sealed by a stationary rod house sealing (604); a chamber house comprising first and second sealing walls (546/548) which contain a medicament (552); wherein the chamber house is connected to the rod house so that the proximal end of the rod penetrates the first and second sealings when slid proximally (see Figure 41); the distal end of the rod projecting out of the distal end of the rod house (see Figure 37); a common actuator (536); and a labeling (570) means arranged on the chamber house.

Response to Arguments

Applicant's arguments filed 4/7/10 have been fully considered but they are not persuasive. Applicant argues that Truesdale does not disclose a stationary or a removable rod house sealing in the proximal end. Examiner disagrees. The claims recite 'the rod house is sealed by a stationary rod house sealing in the proximal end' and 'the rod house is sealed by a removable rod house sealing in the proximal end.' As seen in Figure 2 of Truesdale, sealing element 60 is removably attached to the proximal end of the housing (in that the element is removed when element 12 is detaching from housing 54), and element 60 is also stationary (in that the element 60 does not move once it is attached to the rod housing).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

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date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE N. WITCZAK whose telephone number is (571)272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine N Witczak/
Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767

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